

**STATE
OF
MISSISSIPPI**

INSURANCE PREMIUM TAX LAW

***COMMISSIONER OF REVENUE
STATE TAX COMMISSION
JACKSON, MISSISSIPPI***

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§ 27-15-103. Premium taxes; foreign insurance companies.

- (1) Except as otherwise provided in Section 83-61-11, in addition to the license tax now or hereafter provided by law, which tax shall be paid when the company enters or is admitted to do business in this state, there is hereby levied and imposed upon all foreign insurance companies and associations, including life insurance companies and associations, health, accident and industrial insurance companies and associations, fire and casualty insurance companies and associations, and all other foreign insurance companies and associations of every kind and description, an additional annual license or privilege tax of three percent (3%) of the gross amount of premium receipts received from, and on insurance policies and contracts written in, or covering risks located in this state, except for premiums received on policies issued to fund a deferred compensation plan qualified under Section 457 of the Federal Tax Code for federal tax exemption. In determining said amount of premiums, there shall be deducted therefrom premiums received for reinsurance from companies authorized to do business in this state, cash dividends paid under policy contracts in this state, and premiums returned to policyholders and cancellations on accounts of policies not taken, and, in the case of mutual insurance companies (including interinsurance and reciprocal exchanges, but not including mutual life, accident, health or industrial insurance companies) any refund made or credited to the policyholder other than for losses. The term "premium" as used herein shall also include policy fees, membership fees, and all other fees collected by the companies. No credit or deduction from gross premium receipts shall be allowed for any commission, fee or compensation paid to any agent, solicitor or representative. Provided, however, that any foreign insurance carrier selected to furnish service to the State of Mississippi under the State Employees Life and Health Insurance Plan shall not be required to pay the annual license or privilege tax on the premiums collected for coverage under the said plan.
- (2) In the event that the Mississippi Supreme Court or another court finally adjudicates that any tax levied prior to July 1, 1985, under the provisions of this section was collected unconstitutionally and that a liability for a credit or refund for such collection has accrued, then the rate of tax set forth above shall be increased to four percent (4%) for a period of six (6) years beginning July 1 following such adjudication.
- (3) The taxes herein levied and imposed for the calendar year 1982 and all calendar years thereafter shall be reduced by the net amount of income tax paid to this state for the preceding calendar year, provided, in no event may the credit be taken more than once. The credit herein authorized shall, in no event, be greater than the premium tax due under this section; it being the purpose and intent of this paragraph that whichever of the annual insurance premium tax or the income tax is greater in amount shall be paid.

SOURCES: Laws, 1992, ch. 578, § 11; reenacted without change, Laws, 1994, ch. 620, § 11, eff from and after July 1, 1994.

§ 27-15-105. Liability after withdrawal from state.

Every insurance company which, having been admitted to do business in this state, has withdrawn or shall hereafter withdraw from the state, shall continue to be liable for the tax hereby imposed and shall be required to make and file the annual statement thereof as is herein required and pay the required tax so long as it shall continue to collect premiums from its policyholders in the state.

SOURCES: Codes, 1942, § 9537-02; Laws, 1956, ch. 337, § 2, eff from and after July 1, 1956.

§ 27-15-107. Premium taxes; quarterly statement of gross premium receipts; annual reconciliation statement; state tax commission to enforce.

Every insurance company liable for the tax under the provisions hereof shall make and file with the State Tax Commission a full and correct statement, under the oath of its president, secretary or other duly authorized officer at its home or head office in this country, of the gross amount of its premium receipts during the reporting period, and shall, at the time of filing such report, pay to the State Tax Commission the tax levied hereby upon the premium collections for said period, computed as provided in Sections 27-15-103 and 27-15-109.

Such report and payment are due as follows:

For the period July 1 through September 30, the report and payment are due by October 20;

For the period October 1 through December 31, the report and payment are due by February 20;

For the period January 1 through March 31, the report and payment are due by April 20;

For the period April 1 through June 30, the report and payment are due by July 20. However, for the period April 1 through June 30, 2003, and for the period April 1 through June 30 of each succeeding year thereafter, the report and payment for the months of April and May are due by June 20, and the report and payment for the month of June are due by July 20. Such payments for the months of April and May 2003, shall, after diversion, be deposited by the State Tax Commission into the Budget Contingency Fund created under Section 27-103-301, and payments for the months of April and May of 2004, and each succeeding year thereafter, shall, after diversion, be deposited by the State Tax Commission into the State General Fund.

On or before July 31, 1982, every insurance company liable for the payment of tax hereunder shall make and file with the State Tax Commission, as provided herein, a report of the gross amount of its premium receipts not heretofore reported for periods prior to July 1, 1982, and shall, at the time of filing such report, pay to the State Tax Commission the tax levied upon

the premium collections for said periods computed as provided in Sections 27-15-103 and 27-15-109.

Every insurance company liable for the payment of tax hereunder shall file an annual reconciliation statement of taxes paid during the previous year. The annual reconciliation statement shall be in the form prescribed by the State Tax Commission and shall be filed with the State Tax Commission on or before February 20 following the close of each calendar year.

The State Tax Commission shall have the authority to promulgate rules and regulations, not inconsistent with this article, as it may deem necessary to enforce its provisions.

SOURCES: Codes, 1942, § 9537-03; Laws, 1956, ch. 337, § 3; Laws, 1982, ch. 351, § 2; Laws, 1988, ch. 330; Laws, 1994, ch. 502, § 1; Laws, 2002, ch. 539, § 4, eff from and after July 1, 2002.

§ 27-15-109. Premium taxes; domestic companies.

- (1) Except as otherwise provided in Section 83-61-11, there is hereby levied and imposed upon each domestic company doing business in this state an annual tax of three percent (3%) of the gross amount of premiums collected by such domestic company on insurance policies and contracts written in, or covering risks located in this state, except for premiums received on policies issued to fund a retirement, thrift or deferred compensation plan qualified under Section 401, Section 403 or Section 457 of the Federal Tax Code for federal tax exemption. Provided, however, that a domestic insurance company against which is levied additional premium tax under retaliatory laws of other states in which it does business, as a result of the tax increase provided by Sections 27-15-103 through 27-15-117, may deduct the total of such additional retaliatory tax from the state income tax due by it to the State of Mississippi. The insurance carriers selected to furnish service to the State of Mississippi, under the State Employees Life and Health Insurance Plan, shall not be required to pay the premium tax levied against insurance companies under this section on the premiums collected for coverage under the state employees plan.
- (2) Except as expressly provided by subsection (1) of this section, all of the provisions of Sections 27-15-103 through 27-15-117 shall be applicable to such domestic insurance companies. However, the statement filed with the State Tax Commission by domestic insurance companies as provided in Section 27-15-107 shall include therein a sworn statement of all additional retaliatory premium taxes paid by them to other states as a result of the increase in premium taxes imposed by Sections 27-15-103 through 27-15-117, itemized by states to which paid.
- (3) In the event that the Mississippi Supreme Court or another court finally adjudicates that any tax levied prior to July 1, 1985, under the provisions of this section was collected unconstitutionally and that a liability for a credit or refund for such collection has

accrued, then the rate of tax set forth above shall be increased to four percent (4%) for a period of six (6) years beginning July 1 following such adjudication.

SOURCES: Laws, 1992, ch. 578, § 12; reenacted without change, Laws, 1994, ch. 620, § 12, eff from and after July 1, 1994.

§ 27-15-113. Premium taxes; collection by state tax commission; administrative provisions of Sales Tax Law to apply.

All taxes for which any company is liable under the provisions of this chapter or any other title or chapter which imposes a tax on insurance premiums shall be collected and recovered by the State Tax Commission in the same manner provided by law for the collection of sales taxes; and all administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest for nonpayment of taxes, failure to file returns, and for other noncompliance with the provisions of said chapter, and all other requirements and duties imposed upon taxpayers, shall apply to all persons liable for taxes under the provisions of this chapter or any other title or chapter which imposes a tax on insurance premiums and the commission shall exercise all the power and authority and perform all the duties with respect to taxpayers under this chapter or any other title or chapter which imposes a tax on insurance premiums as are provided in said sales tax law, except that in cases of conflict, then the provisions of this chapter or any other title or chapter which imposes a tax on insurance premiums shall control.

SOURCES: Codes, 1942, § 9537-06; Laws, 1956, ch. 337, § 6; 1982, ch. 351, § 5; 1990, ch. 477, § 1, eff from and after passage (approved March 24, 1990).

§ 27-15-115. Additional taxes imposed.

In addition to all other taxes authorized by law, insurance companies shall pay the license and privilege taxes imposed by sections 27-15-81 and 27-15-83, the taxes imposed by sections 27-15-103 to 27-15-117, ad valorem taxes on real estate and tangible personal property, state income tax, sales tax levied on a vendor with a requirement of adding it to the sales price and use tax levied on the cost of tangible personal property purchased outside this state for use within this state.

SOURCES: Codes, 1942, § 9537-07; Laws, 1956, ch. 337, § 7; 1958, ch. 446; 1960, ch. 371; 1962, ch. 475; 1978, ch. 441, § 4, eff from and after July 1, 1978.

§ 27-15-117. Premium taxes; applicability to mutual and reciprocal insurance companies.

All of the provisions of sections 27-15-103 to 27-15-117 shall be applicable to mutual and reciprocal insurance companies and associations.

SOURCES: Codes, 1942, § 9537-08; Laws, 1956, ch. 337, § 8, eff from and after July 1, 1956.

§ 27-15-119. Premium taxes; annuity policies and contracts.

- (1) Notwithstanding any other provisions of the laws of this state, the rate of the annual license or privilege tax on the gross amount of premium receipts received from and on annuity policies and contracts written in or covering risks located in this state shall be one percent (1%) upon all insurance companies and associations from July 1, 1994, through June 30, 1995, and thereafter there shall be no annual license or privilege tax on the gross amount of premium receipts received from and on annuity policies and contracts written in or covering risks located in this state upon all insurance companies and associations. Provided, however, an annual license or privilege tax on the gross amount of premium receipts received from and on policies and contracts issued to fund a retirement, thrift or deferred compensation plan qualified under Section 401, Section 403, an individual retirement annuity qualified under Section 408 or Section 457 of the Federal Tax Code for federal tax exemption shall not be imposed on any foreign or domestic company, unless such foreign company has its principal place of business in a state which imposes a license or privilege tax on such policies issued by companies having their principal place of business in Mississippi, in which case said foreign company shall be taxed at the same rate its state of principal business imposes a license or privilege tax on Mississippi companies with respect to such policies. Provided further, in the event an insurance company has heretofore included in its premium charge the tax required hereby, said premium charges on all such annuity policies and contracts shall be reduced by the amount of said tax within one hundred twenty (120) days from the effective date of this section. This latter provision shall apply to all such annuity policies and contracts qualified under Section 401, Section 403, Section 408 or Section 457 of the Federal Tax Code for federal tax exemption presently in force as well as to those hereafter issued.
- (2) In the event that the Mississippi Supreme Court or another court finally adjudicates that any tax levied prior to July 1, 1985, under the provisions of this section was collected unconstitutionally and that a liability for a credit or refund for such collection has accrued, then the rate of tax set forth above shall be increased to four percent (4%) for a period of six (6) years beginning July 1 following such adjudication.

SOURCES: Laws, 1994, ch. 441, § 1, eff from and after July 1, 1994.

RETALIATORY LAW

§ 27-15-121. Premium retaliatory tax; citation.

Sections 27-15-121 to 27-15-127 shall be known as the "Mississippi Insurance Premium Tax Retaliatory Law."

SOURCES: Codes, 1942, § 9537-21; Laws, 1964, ch. 474, § 1, eff from and after December 31, 1964.

§ 27-15-123. Premium retaliatory tax; imposition.

When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon Mississippi insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions or restrictions of whatever kind shall be imposed by the state tax commission or the commissioner of insurance upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in Mississippi. Any tax, license or other fee or other obligation imposed by any city, county or other political subdivision or agency of such other state or country on Mississippi insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this section.

SOURCES: Codes, 1942, § 9537-22; Laws, 1964, ch. 474, § 2; 1982, ch. 351, § 6, eff from and after July 1, 1982.

§ 27-15-125. Premium retaliatory tax; excluded taxes and charges.

Sections 27-15-121 through 27-15-127 shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance, other than property insurance, except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the state tax commission in determining the propriety and extent of retaliatory action under this section.

SOURCES: Codes, 1942, § 9537-23; Laws, 1964, ch. 474, § 3; 1982, ch. 351, § 7, eff from and after July 1, 1982.

§ 27-15-127. Premium retaliatory tax; determination of domicile of foreign insurer.

For the purposes of sections 27-15-121 to 27-15-127 the domicile of a foreign insurer other than insurers formed under the laws of Canada, shall be that state designated by the insurer in writing filed with the commissioner at time of admission to this state or within six months

after the effective date of sections 27-15-121 to 27-15-127, whichever date is the later, and may be any one of the following states:

- (a) That in which the insurer was first authorized to transact insurance;
- (b) That in which is located the insurer's principal place of business in the United States; or
- (c) That in which is held the larger deposit of trusteed assets of the insurer for the protection of its policyholders and creditors in the United States.

If the insurer makes no such designation its domicile shall be deemed to be that state in which is located its principal place of business in the United States.

In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.

SOURCES: Codes, 1942, § 9537-24; Laws, 1964, ch. 474, § 4, eff from and after December 31, 1964.

§ 27-15-129. Reduction in premium tax for qualifying Mississippi investments.

- (1) The amount of premium tax payable pursuant to Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972, shall be reduced from the amount otherwise fixed in such sections if the payer files a sworn statement with the required annual report showing as of the beginning of the reporting period that at least the following amounts of the total admitted assets of the payer were invested and maintained in qualifying Mississippi investments as hereinafter defined in subsection (2) of this section over the period covered by such report:

Percentage of Total Admitted Assets in Qualifying Mississippi Investments	Percentage of Premium Tax Payable
1%	99%
2%	98%
3%	97%
4%	96%
5%	95%
6%	94%
7%	93%
8%	92%
9%	91%
10%	80%
15%	70%

20%
25%

60%
50%

- (2) For the purpose of this section, "a qualifying Mississippi investment" is hereby defined as follows:
- (a) Certificates of deposit issued by any bank or savings and loan association domiciled in this state;
 - (b) Bonds of this state or bonds of municipal, school, road or levee districts, or other political subdivisions of this state;
 - (c) Loans evidenced by notes and secured by deeds of trust on property located in this state;
 - (d) Real property located in this state;
 - (e) Policy loans to residents of Mississippi, or other loans to residents of this state, or to corporations domiciled in this state;
 - (f) Common or preferred stock, bonds and other evidences of indebtedness of corporations domiciled in this state; and
 - (g) Cash on deposit in any bank or savings and loan association domiciled in this state.
- (3) If the credits, or any part thereof, authorized by the preceding provisions of this section shall be held by a court of final jurisdiction to be unconstitutional and void for any reason or to make the annual premium taxes levied by Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972, unlawfully discriminatory or otherwise invalid under the Fourteenth Amendment or the Commerce Clause of the Constitution of the United States or under any state or other Federal Constitutional provisions, it is hereby expressly declared that such fact shall in no way affect the validity of the annual premium taxes levied thereby, and that such provisions would have been enacted even though the Legislature had known this credit section would be held invalid.
- (4) This section shall apply to taxes accruing and investments existing from and after July 1, 1985.

SOURCES: Laws, 1992, ch. 375, § 1, eff from and after passage (approved April 22, 1992).

§ 27-15-131. Credit for overpayment of taxes.

In the event a company has overpaid taxes levied pursuant to Section 27-15-103, 27-15-109, 27-15-119 or 83-31-45, the commissioner may give credit for such overpayment and allow

the company to take credit on subsequent returns or, if necessary, in the discretion of the commissioner, refund such overpayment as otherwise provided by Section 27-15-113.

SOURCES: Laws, 1985, ch. 530, § 6, eff from and after July 1, 1985.

DISABILITY AND RELIEF FUND FOR FIREMEN AND POLICEMEN

§ 21-29-201. Creation of disability and relief fund and system for firemen and policemen.

In each city in the State of Mississippi having a population of not less than three thousand (3,000) according to the last federal census or according to any subsequent federal census, and having a regularly organized, paid fire department with equipment of the value of not less than four thousand dollars (\$4,000.00) and/or regularly organized paid police department, and having not less than two (2) paid firemen and/or not less than two (2) paid policemen, whose sole employment is by such city in its fire department and for police department, there may be provided in connection with the regularly organized and maintained paid fire department and/or police department of such city a special fund known as the "disability and relief fund for firemen and policemen," hereinafter called "said fund," which shall exist and be maintained for the benefit of the persons hereinafter named and shall be derived, raised and administered in the manner hereinafter provided.

Said fund and system of relief, when inaugurated, shall and does create a disability and relief system to apply to the members of the regularly organized, maintained and paid fire department and/or police department of such municipality. Notwithstanding any other section of this article no such fund known as the "disability and relief fund for firemen and policemen" shall be created by any city after March 1, 1976, unless by an amendment to this article by the legislature of the State of Mississippi.

Any reference in other sections of this article to members of the fire and police department shall be defined to include only the members of the disability and relief fund for firemen and policemen of the city.

SOURCES: Codes, 1942, §§ 3494-01, 3494-04; Laws, 1924, ch. 189; 1930, ch. 55, §§ 1, 3; 1976, ch. 463, § 8, eff from and after passage (approved May 22, 1976).

§ 21-29-229. Tax on premiums of fire and lightning insurers.

The Board of Trustees of the Public Employees' Retirement System, as soon as it is decided that such city shall come within the terms of this article, shall notify the Insurance Commissioner of the State of Mississippi that such city is operating within such terms. The commissioner shall notify all insurance companies, which shall include mutual, interinsurer, and reciprocal associations or companies, transacting the business of fire and lightning insurance in the State of Mississippi, of the fact that such city is operating within such terms. In the event

that any such insurance company writes or has written any insurance in said municipality, the rates of said insurance company being based in any way upon the efficiency and equipment of the fire department of said municipality, such company shall be notified that at the time that foreign insurance companies are required to report to the State Tax Commission the premiums charged or received in Mississippi, then such company, whether foreign or domestic, shall truly report to the State Tax Commission at the same time as reports on the general tax on premiums are made as provided in Section 27-15-107, sending a duplicate of such report to such board of trustees, the amount of premiums charged by said company for fire and lightning insurance on property situated in such city within the period covered by the report made to the State Tax Commission for purposes of taxation of such state, less premiums returned to policyholder and cancellations on account of policies not taken. It is the legislative intent that said report of premiums shall include and cover all premiums charged or received within said period, less returned premiums and cancellations as aforesaid in connection with the insurance of property situated in such city, which are reported for the purposes of taxation by said state. Such report for the purposes of this section shall not include premiums contracted for prior to such time as the commissioner shall have notified the company that such city is within the terms and purposes of this article. Said premiums so required to be reported shall be and they are hereby taxed to the extent of one-half of one percent ($1/2$ of 1%) of said premiums, after deducting said returned premiums and cancellations, which tax shall be paid to the State Tax Commission by the insurance company at the same time that the general tax on premiums is paid to the State Tax Commission as provided in Section 27-15-107. The insurance company paying the same shall notify the State Tax Commission of the name of the city responsible for the maintenance of such fire department and system, and, at the same time, shall give such city duplicate notice of the amount paid to the State Tax Commission. The State Tax Commission is hereby authorized and empowered to collect such taxes in the same manner and by the same means that he is required and empowered to collect other taxes imposed upon insurance premiums.

SOURCES: Laws, 1994, ch. 502, § 2, eff from and after passage (approved March 23, 1994).

§ 21-29-231. On what premiums tax may be imposed; tax not to be used as an element of premium.

Said tax on insurance premiums shall not be imposed or collected upon any premiums except upon those under insurance policies upon property situated in the municipality coming under the provisions of this article. The tax paid hereunder for the maintenance of such fire department system in any municipality coming under the provisions of this article, shall not be used as an element of any premium or be considered in the making of rates except in proper causes under the provisions of the rating bureau law in connection with property situated in the municipality to which said tax is paid.

SOURCES: Codes, 1942, § 3494-08; Laws, 1924, ch. 189; 1930, ch. 55, § 6 ¶ 2.

§ 21-29-233. Duty of state tax commission.

It shall be the duty of the State Tax Commission to collect and to enforce the collection of said tax of one-half of one percent (1/2 of 1%) upon all premiums paid to insurance companies doing business in said municipality, which said insurance companies have written insurance on rates, said rates having been compiled by taking into consideration the fire department and equipment of said municipality. Upon the State Tax Commission having collected said tax, it shall promptly pay the same to the board of trustees for the benefit of said fund for disability and relief of firemen and policemen.

SOURCES: Codes, 1942, § 3494-09; Laws, 1924, ch. 189; 1930, ch. 55, § 7; 1984, ch. 462, § 2; 1987, ch. 511, § 30, eff from and after April 30, 1987.

§ 21-29-235. Failure of insurance company to report.

Any fire insurance company, subject to the tax mentioned in section 21-29-229, which shall fail to make a report or statement required therein after thirty days demand therefor by the commissioner of insurance, shall forfeit to said fund the sum of five hundred dollars, to be recovered by the commissioner for the use of such municipality, and the commissioner shall have the right to revoke the license of such company.

SOURCES: Codes, 1942, § 3494-22; Laws, 1924, ch. 189; 1930, ch. 55, § 20.

**STATE FIRE MARSHAL AND
STATE FIREFIGHTER'S SCHOOL**

§ 45-11-5. Tax on gross premium receipts of fire insurance policies to defray expenses of office of state chief deputy fire marshal and state fire academy; additional funding for municipal fire protection fund and county volunteer fire department fund.

- (1) Any expense, including office supplies, counsel fees, expenses of deputy, detective and officers, incurred by the Commissioner of Insurance in the performance of the duties imposed upon him by Sections 45-11-1 and 45-11-3, and the operation of the State Fire Academy, as provided in Section 45-11-7, shall be defrayed by all insurance companies, including stock, mutuals and reciprocals writing fire insurance, including the fire insurance components of automobile insurance, dwelling multiple peril insurance, farm multiple peril insurance and commercial multiple peril insurance, doing business in this state; and a tax of one-half of one percent (1/2 of 1%) of the gross premium receipts of these fire insurance policies is hereby levied for this purpose to be collected by the State Tax Commission in the same manner as the general tax on premiums is collected as provided in Section 27-15-107. In the case of indivisible multiple peril insurance policies when the fire portion of the policy is not specified, a tax of one-half of one percent (1/2 of 1%) is hereby levied on forty-five percent (45%) of the gross premium receipts of these policies.

- (2) There is created a separate account known as the "State Fire Academy Fund" for support of the State Fire Academy. Not later than the fifteenth of the month succeeding the month in which taxes under subsection (1) are collected, the State Treasurer shall transfer into this account all taxes collected under subsection (1) for the operation of the State Fire Academy. The annual expenditure for the operation of the academy shall not exceed the amount in the account; however, any unexpended funds remaining in the account at the close of the fiscal year may be carried over for use in the ensuing years.
- (3)
 - (a) A tax of one-half of one percent ($1/2$ of 1%) is hereby levied on the gross premium receipts of all insurance policies taxed in subsection (1).
 - (b) Not later than the fifteenth day of each month, the State Treasurer shall disburse the revenue from the tax levied in this subsection as follows:
 - (i) Fifty percent (50%) shall be transferred into the Municipal Fire Protection Fund in Section 83-1-37; and
 - (ii) Fifty percent (50%) shall be transferred to the County Volunteer Fire Department Fund in Section 83-1-39.
- (4) All taxes shall be deposited into the treasury as provided in Section 7-7-21. The tax commission shall keep separate accounts of all taxes collected under this section and shall include these accounts in its annual report.

SOURCES: Laws, 1994, ch. 502, § 3, eff from and after passage (approved March 23, 1994); 1994, ch. 577, § 1, eff from and after October 1, 1994.

§ 45-11-7. State fire academy; executive director; division of fire services development.

- (1) There is hereby created a State Fire Academy for the training and education of persons engaged in municipal, county and industrial fire protection. The Commissioner of Insurance shall appoint an Executive Director of the State Fire Academy who, along with his employees, shall be designated as a division of the Insurance Department. The executive director shall serve at the pleasure of the Commissioner of Insurance. The State Fire Academy shall be under the supervision and direction of the Executive Director of the State Fire Academy. State Fire Academy training programs for fire personnel shall be conducted at the academy with seminars to be conducted in other sections of the state as and when the State Fire Academy Advisory Board considers it necessary and advisable.

The Commissioner of Insurance may establish and charge reasonable fees for the training programs and other services provided by the academy. A record of all funds received pursuant to this paragraph shall be maintained as is required for other monies pursuant to Section 45-11-5.

The Executive Director of the State Fire Academy is authorized and empowered to purchase, operate and maintain mobile fire fighting equipment as he may find necessary and proper for the operation of the academy subject to approval of the Commissioner of Insurance. The equipment may be utilized wherever training sessions may be held at the discretion of the State Fire Academy Advisory Board.

- (2) The Commissioner of Insurance shall be authorized to undertake appropriate action to accomplish and fulfill the purposes of the State Fire Academy, including the hiring of instructors and personnel, the lease and purchase of appropriate training equipment and to lease, purchase or construct suitable premises and quarters for conducting annual school and seminars, as the State Fire Academy Advisory Board may deem necessary and required for such purposes. Any contract entered into under and by virtue of the provisions of this section shall first be submitted to and approved by the Public Procurement Review Board, and construction pursuant to the contract shall be under the supervision of the Governor's Office of General Services.
- (3) Vouchers for operating expense for the State Fire Academy shall be signed by the Executive Director of the State Fire Academy and payment thereof shall be made from such funds to be derived from a special allocation from the State Fire Academy Fund as provided in Section 45-11-5.
- (4) The State Fire Academy is hereby officially designated as the agency of this state to conduct training for fire personnel on a statewide basis in which members of all duly constituted fire departments may participate. This subsection shall not be construed to affect the authority of any fire department to conduct training for its own personnel.
- (5) Each state agency, private agency or federal agency which provides training for the fire service shall coordinate such efforts with the State Fire Academy to prevent duplication of cost and to insure standardization of training.
- (6) The State Fire Academy shall present an appropriate certificate signifying the successful completion of its prescribed courses.
- (7) National fire fighter standards approved by the Mississippi Fire Personnel Minimum Standards and Certification Board shall be used as the basis for classroom instruction at the fire academy.
- (8) The Commissioner of Insurance, Executive Director of the State Fire Academy, and the Mississippi Fire Personnel Minimum Standards and Certification Board shall coordinate all state programs related to fire department operations.
- (9) The Commissioner of Insurance is hereby authorized and empowered to establish standard guidelines for the use of, and accountability for, municipal and county fire protection funds distributed pursuant to the provisions of Sections 83-1-37 and 83-1-39, Mississippi Code of 1972. Such guidelines shall include requirements for the

establishment of record keeping and reports to the Commissioner of Insurance by municipalities and counties relating to the receipt and expenditure of fire protection funds, the training of fire department personnel and the submission to the Commissioner of Insurance of other data reasonably related to local fire protection responsibilities which the Commissioner of Insurance deems necessary for the performance of the duties of the State Fire Academy Advisory Board.

- (10) In order that the Commissioner of Insurance may more effectively execute the duties imposed upon him by subsection (9) of this section, there is hereby created within the State Fire Academy a Division of Fire Services Development. The division shall be staffed by a Fire Services Development Coordinator, appointed by the executive director of the academy from his current staff and by such other personnel as deemed by the Commissioner of Insurance. The division shall work with municipal and county fire coordinators to ensure effective implementation of guidelines established pursuant to subsection (9) of this section and shall serve in an advisory capacity for all aspects of fire service improvement. The Fire Service Coordinator shall annually notify the Department of Finance and Administration of those municipalities and counties which are not eligible to receive a portion of fire protection fund distributions because of failure to comply with requirements imposed in Sections 83-1-37 and 83-1-39 as a prerequisite to receipt of such funds.
- (11) There is created in the State Treasury a separate account to be known as the "State Fire Academy Construction Fund." The State Treasurer shall transfer on July 1, 1997, the sum of Six Hundred Seventy-five Thousand Dollars (\$675,000.00) and on July 1, 1998, the sum of Six Hundred Seventy-five Thousand Dollars (\$675,000.00) from the State Fire Academy Fund 3502 into the separate account created in this subsection. Monies in such account shall be expended solely, upon legislative appropriations, to defray expenses related to the construction of capital improvements project known as "Fire Safety and Education Building" and parking areas at the State Fire Academy by the Bureau of Building, Grounds and Real Property Management of the Office of General Services and to pay any indebtedness incurred to accomplish such construction. Funds not used after the completion of this capital improvements project shall be transferred back into State Fund 3502.

SOURCES: Laws, 1997, ch. 559, § 1, eff from and after July 1, 1997.

REPORTING REQUIREMENTS AND AUDITS

TITLE 83: INSURANCE

§ 83-1-13. Monthly report; payment of taxes to state treasurer.

The commissioner shall furnish to the Auditor on or before the tenth day of each month a statement, in detail, of the taxes and licenses received by him under this title during the previous month, and shall pay to the Treasurer the amount in full of such taxes and licenses. The State Tax Commission shall make payment to the State Treasurer of taxes collected by it under this title in the manner provided by Section 7-9-21.

SOURCES: Reenacted without change, Laws, 1996, ch. 313, § 7, eff from and after June 30, 1996.

§ 83-1-25. Financial examination of domestic companies.

[Repealed by Laws, 1992, ch. 319, § 10; reenacted, Laws, 1996, ch. 313, § 13] Repealed by Laws, 1997, ch. 410, § 23, eff from and after July 1, 1997.

§ 83-1-27. Examination of foreign concerns.

Whenever the Commissioner of Insurance deems it prudent for the protection of the policyholders in this state, he shall in like manner visit and examine, or cause to be visited and examined by some competent person or persons he may appoint for that purpose, any foreign insurance company applying for admission or already admitted to do business by agencies in this state, and such companies shall pay the proper charges incurred in such examination, including the expense of the commissioner or his deputy and the expenses and compensation of his assistants employed therein. For the purpose aforesaid, the commissioner or his deputy or persons making examination shall have free access to all the books and papers of the insurance company that relate to its business and to the books and papers kept by any of its agents, and may summon and qualify as witnesses, under oath, and examine the directors, officers, agents and trustees of any such company, and any other persons in relation to its affairs, transactions and conditions. Such examination shall be made by the commissioner, or by his accredited representatives, and such companies shall pay the proper charges incurred in such examination, including the expense of the commissioner or financial examiners, actuaries, market conduct examiners, accountants, attorneys or other professional service organizations necessary to administer this section. The Department of Insurance may contract with professional service organizations to examine all companies under its jurisdiction, and the professional service organization may directly bill the company under examination. The commissioner shall monitor the charges for these professional services and verify that all costs are reasonable. If a company fails to pay these fees within thirty (30) days of billing, the commissioner, after notice and a

hearing, is authorized to impose an administrative fine not to exceed One Thousand Dollars (\$1,000.00) per day to be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund." The compensation and expense of the commissioner or such examiner for the commissioner shall not exceed that approved by the National Association of Insurance Commissioners for all financial and market conduct examiners on such examinations, itemized account of such charges being rendered to and approved by the Commissioner of Insurance.

The results of audits performed hereunder by the Commissioner of Insurance may be furnished to the State Tax Commission. Nothing herein shall be construed to prohibit the State Tax Commission from performing such additional audits or verifications as it may deem necessary to insure the proper payment of taxes.

SOURCES: Reenacted without change, Laws, 1996, ch. 313, § 14; 1997, ch. 410, § 1, eff from and after July 1, 1997.

§ 83-1-29. Suspension or revocation of certificate of authority.

Whenever it shall appear to the commissioner, upon examination or other evidence, that a foreign insurance company is in an unsound condition, or upon notification by the State Tax Commission that the company is delinquent in the payment of taxes due the state, or that it has failed to comply with the law, or that it, its officers, or agents, refused to submit to examination or to perform any legal obligation in relation thereto, he shall revoke or suspend all certificates of authority granted to it or its agents, and shall cause notification thereof to be published in one or more newspapers published in this state. No new business shall thereafter be done by it or its agents in this state while such default or disability continues, nor until its authority to do business is restored by the commissioner. If, upon examination, he is of the opinion that any domestic insurance company is insolvent, or has exceeded its powers, or has failed to comply with any provision of law applicable to it, or that its condition is such as to render its further proceeding hazardous to the public or its policyholders, or upon notification by the State Tax Commission that the company is delinquent in the payment of taxes due the state, he shall suspend its license. If he deems it necessary, he shall apply to a judge of the chancery court to issue an injunction restraining it, in part or in whole from further proceeding with its business. Such judge may, in his discretion, issue the injunction forthwith or upon notice and hearing thereon and, after a full hearing of the matter, may dissolve or modify such injunction or make it permanent, may make all orders and decrees needful in the premises, and may appoint agents or receivers to take possession of the property or effects of the company and to settle its affairs, subject to such rules and orders as the court may, from time to time, prescribe according to the course of proceedings in equity.

SOURCES: Reenacted without change, Laws, 1996, ch. 313, § 15, eff from and after June 30, 1996.

§ 83-1-31. Audit of books to determine tax liability.

When, in the judgment of the Insurance Commissioner, or upon request by the State Tax Commission, an audit, examination, or inspection of the books, records, invoices, papers, memoranda, or other data appears to be required or necessary to determine the assessment of a tax, or to establish a tax liability, or to verify a payment of a tax, under the tax laws of this state, of a taxpayer doing business both within and without the state and maintaining his principal place of business outside the state, such audit, or examination, or inspection may be made at the principal place of business outside the state to the same extent and same effect as audits, examinations, or inspections are made of books, records, invoices, papers, memoranda, or other data located in this state.

The Insurance Commissioner, who is directly charged with the duty of auditing the records necessary for use by the State Tax Commission in assessing and collecting taxes under laws which require a taxpayer to keep adequate books, records, papers, invoices, memoranda, or other data at a place in this state, reflecting his liability for any tax due the state, and which taxpayer conducts his business both within and without Mississippi and maintains his principal place of business outside this state, at which his books, records, etc., are located, may elect to audit, examine, or inspect all books, records, papers, invoices, memoranda, or other data reflecting upon the Mississippi tax assessment and tax liability at the principal place of business of the taxpayer, rather than require the taxpayer to transport all of his books, records, papers, invoices, memoranda, and other data to some place in this state.

SOURCES: Reenacted without change, Laws, 1996, ch. 313, § 16, eff from and after June 30, 1996.

MUNICIPAL AND COUNTY FIRE PROTECTION FUNDS

§ 83-1-37. Municipal fire protection fund.

- (1) The State Tax Commission shall pay for credit to a fund known as the "Municipal Fire Protection Fund," the sum of Four Million Six Hundred Thousand Dollars (\$4,600,000.00) annually out of the insurance premium tax collected annually from the taxes levied on the gross premiums on fire insurance policies written on properties in this state, under Sections 27-15-103 to 27-15-127. The State Treasurer shall credit this amount to the Municipal Fire Protection Fund. This fund shall be set aside and earmarked for payment to municipalities in this state, as hereinafter provided.
- (2) Using 1990 as a base year, the State Tax Commission shall pay over annually to the State Treasurer, for credit to the "Municipal Fire Protection Fund," an amount representing one-half of ten percent (1/2 of 10%) of any growth after 1990 of the insurance premium tax collected annually from the taxes levied on the gross premium on fire insurance policies written on properties in this state, under Sections 27-15-103 to 27-15-127.

- (3) The fund hereby created and denominated "Municipal Fire Protection Fund" shall be apportioned and paid over by the Department of Insurance to the incorporated municipalities certified as eligible to participate in the fund by the Commissioner of Insurance, and shall be distributed once each year on a population basis, to be determined by the most recent federal census. Municipalities receiving these funds shall earmark such monies for fire protection services.
- (4) The amount paid under subsections (1) and (2) of this section to a municipality shall be used and expended solely for purposes connected with the improvement of the fire departments of the municipality.
- (5) Each municipality shall levy a tax of not less than one-fourth (1/4) mill on all property of the municipality or appropriate the avails of not less than one-fourth (1/4) mill from the municipality's general fund for fire protection purposes. Municipalities may allow such millage to be collected by the county. Each municipality shall annually provide the Commissioner of Insurance and the State Fire Coordinator on a form provided by the State Fire Coordinator a report stating whether the municipality is levied the one-fourth (1/4) mill hereby required or in lieu thereof is allowing such millage to be collected by the county.

SOURCES: Laws, 1994, ch. 418, § 6; 1994, ch. 577, § 2; reenacted, Laws, 1996, ch. 313, § 19, eff from and after June 30, 1996.

§ 83-1-39. County volunteer fire department fund; fund for insurance rebate monies not expended for fire protection purposes.

- (1) The State Tax Commission shall pay over to the State Treasurer, to be credited to a fund entitled "County Volunteer Fire Department Fund," the sum of Four Million Six Hundred Thousand Dollars (\$4,600,000.00) annually out of the insurance premium tax in addition to the amount collected by it under the provisions of Section 27-15-103 et seq. Such funds, hereinafter referred to as insurance rebate monies, are hereby earmarked for payment to the various counties of the state and shall be paid over to the counties by the Department of Insurance on the basis of the population of each county as it compares to the population of participating counties, not counting residents of any municipality. Such insurance rebate monies shall only be distributed to those counties which are in compliance with subsections (5) and (6) of this section.
- (2) Using 1990 as a base year, the State Tax Commission shall pay to the State Treasurer, to be credited to the "County Volunteer Fire Department Fund," an amount representing one-half of ten percent (1/2 of 10%) of any growth after 1990 of the insurance premium tax collected annually from the taxes levied on the gross premium on fire insurance policies written on properties in this state, in addition to the amount collected by it under Section 27-15-103 et seq.

- (3) Insurance rebate monies shall be expended by the board of supervisors for fire protection purposes of each county as follows:
- (a) For training expenses;
 - (b) Purchase of equipment, purchase of fire trucks, repair and refurbishing of fire trucks and fire fighting equipment, and capital construction anywhere in the county or pledging as security for a period of not more than ten (10) years for such purchases;
 - (c) Purchase of insurance on county-owned fire fighting equipment;
 - (d) Fire protection service contracts (including but not limited to municipalities, legal fire protection districts, and nonprofit corporations providing or coordinating fire service in or out of the county); or
 - (e) Appropriations to legal fire protection districts located in counties subject to all restrictions applicable to the use of insurance rebate monies.

Any county-owned equipment or other property, at the option of the board of supervisors, may be used by any legally created fire department.

- (4) Insurance rebate monies not expended in a given fiscal year for fire protection purposes shall be placed in a special fund with a written plan for disposition and expenditure of such monies. After the contracts for fire protection services have been approved and accepted by the board of supervisors, the monies shall be released to be expended in such manner as provided by this section.
- (5) No county shall receive payments pursuant to this section after July 1, 1988, unless such county:
- (a) Designates a county fire service coordinator who is responsible for seeing that standard guidelines established by the Commissioner of Insurance pursuant to Section 45-11-7(9), Mississippi Code of 1972, are followed. The county fire coordinator must demonstrate that he possesses fire-related knowledge and experience;
 - (b) Designates one (1) member of the sheriff's department to be the county arson investigator and requires the designated member of the sheriff's department to attend the State Fire Academy to be trained in arson investigation;
 - (c) Adheres to the standard guidelines established by the Commissioner of Insurance pursuant to Section 45-11-7(9); and
 - (d) Counties shall levy a tax of not less than one-fourth (1/4) mill on all property of the county or appropriate avails of not less than one-fourth (1/4) mill from the

county's general fund for fire protection purposes. Municipalities making a written declaration to the county that they fund and provide their own fire services shall be exempted from this levy. This levy may be used for fire protection purposes which include but are not limited to contracting with any provider of fire protection services.

- (6) No funds shall be paid by the county to any provider of fire protection services except in accordance with a written contract entered into in accordance with guidelines established by the Commissioner of Insurance and properly approved by the board of supervisors and Commissioner of Insurance. No county shall distribute funds to any fire service provider which has not met the reporting requirements required by the Commissioner of Insurance. At such time that a fire protection services provider, particularly a county volunteer fire department, a municipality or a fire protection district, has fulfilled the obligations of the written contract and has met the reporting requirements provided for in this subsection and the board of supervisors has received the insurance rebate monies, the board of supervisors shall disburse the appropriate amount to the fire protection services provider within a reasonable time, not to exceed six (6) weeks, from the time such requirements are met. Insurance rebate monies used for the purposes of contracting shall be expended by the fire service provider for capital construction, training expenses, purchase of fire fighting equipment including payments on any loans made for the purpose of purchasing fire fighting equipment, and purchase of insurance for any fire equipment owned or operated by the provider.
- (7) The board of supervisors of any county may contribute funds directly to any provider of fire protection services serving such county. Such contributions must be used for fire protection purposes as may be reasonably established by the Commissioner of Insurance.
- (8) Any municipal, county or local water association or other utility district supplying water may, upon adoption of a resolution authorizing such action, contribute free of charge to a volunteer fire department or fire protection district serving such local government, political subdivision or utility district, such water as is necessary for fire fighting or training activities of such volunteer fire department or fire protection district.
- (9) The board of supervisors of any county may, in its discretion, grade, gravel, shell and/or maintain real property of a county volunteer fire department, including roads or driveways thereof, as necessary for the effective and safe operation of such county volunteer fire department. Any action taken by the board of supervisors under the authority of this subsection shall be spread upon the minutes of the board of supervisors when the work is authorized.
- (10) For the purpose of this section, "fire protection district" means a district organized under Section 19-5-151 et seq., or pursuant to any other Code section or by any local and private act authorizing the establishment of a fire protection district, unless the context clearly requires otherwise.

SOURCES: Laws, 1994, ch. 418, § 7, eff from and after July 1, 1994; 1994, ch. 577, § 3, eff from and after October 1, 1994.

GUARANTY FUND ASSESSMENT CREDIT

§ 83-23-218. Member insurers permitted to offset assessment against taxes.

- (1) From and after July 1, 1993, a member insurer may offset against its (premium, franchise or income) tax liability (or liabilities) to this state an assessment described in Section 83-23-217(8) to the extent of twenty percent (20%) of the amount of such assessment, if any, for each year over the next five (5) succeeding years. However, if the offset is less than twenty percent (20%), any unused balance may be carried over to any succeeding year until such time as the offset provided herein is fully used. In the event a member insurer should cease doing business, all uncredited assessments may be credited against its (premium, franchise or income) tax liability (or liabilities) for the year it ceases doing business.
- (2) Any sums which are acquired by refund, pursuant to Section 83-23-217(6), from the association by member insurers, and which have theretofore been offset against (premium, franchise or income) taxes as provided in subsection (1) of this section, shall be paid by such insurers to this state in such manner as the tax authorities may require. The association shall notify the commissioner that such refunds have been made.

SOURCES: Laws, 1993, ch. 347, § 1, eff from and after July 1, 1993.

MUTUAL COMPANIES

§ 83-31-1. Formation.

Any number of persons not less than three (3), a majority of whom shall be bona fide residents of this state, by complying with the provisions of this chapter, may become, together with others who may hereafter be associated with them or their successors, a body corporate for the purpose of carrying on the business of mutual insurance as herein provided.

SOURCES: Laws, 1997, ch. 410, § 14, eff from and after July 1, 1997.

§ 83-31-5. Name must contain the word "mutual."

No name shall be adopted by such company which does not contain the word "mutual," or which is so similar to any name already in use by any such existing corporation, company, or association, organized or doing business in the United States, as to be confusing or misleading.

SOURCES: Codes, Hemingway's 1921 Supp. § 5209c; 1930, § 5271; 1942, § 5785; Laws, 1918, ch. 157.

§ 83-31-45. Taxation of premium receipts.

- (1) The taxable premium or premium receipts of any mutual insurance company organized or admitted in this state under this chapter for the purpose of taxation under any law of this state shall be the gross premiums received for direct insurance upon property or risks in this state, deducting premiums upon policies not taken and premiums returned on cancelled policies and also any refund or return made to the policyholder other than for loss. Such mutual insurance companies shall pay into the State Treasury through the State Tax Commission a premium tax in accordance with the provisions of Section 27-15-103 et seq.
- (2) In the event that the Mississippi Supreme Court or another court finally adjudicates that any tax levied prior to July 1, 1985, under the provisions of this section was collected unconstitutionally and that a liability for a credit or refund for such collection has accrued, then the rate of tax set forth above shall be increased to four percent (4%) for a period of six (6) years beginning July 1 following such adjudication.

SOURCES: Laws, 1997, ch. 324, § 4, eff from and after July 1, 1997.

**NONPROFIT MEDICAL LIABILITY
INSURANCE CORPORATIONS**

§ 83-47-1. Declaration of purpose.

The public health and welfare requires the adoption of this chapter providing for the organization and operation of nonprofit medical liability insurance corporations.

SOURCES: Laws, 1977, ch. 491, § 1, eff from and after passage (approved April 15, 1977).

§ 83-47-3. Formation of corporation; contents and approval of articles of incorporation.

Any seven (7) or more physicians licensed to practice in Mississippi who are residents of this state, may form a nonprofit corporation under this chapter for the purpose of providing medical, professional, general and other liability insurance to health care providers, health care facilities and managed care organizations in Mississippi and any other state or jurisdiction. The term "health care provider," when used in this chapter, shall mean a physician, dentist, pharmacist, osteopath, psychologist, podiatrist, optometrist, chiropractor, nurse, medical technician or other health care provider licensed by the State of Mississippi or any other state or jurisdiction. The term "health care facility," when used in this chapter, shall mean a medical clinic, nursing home, outpatient surgical center, laboratory, pharmacy, dialysis clinic, hospital or

other health care facility licensed, if necessary, by the State of Mississippi or any other state or jurisdiction. The term "managed care organization," when used in this chapter, shall mean a health maintenance organization (HMO), individual practice association (IPA), preferred provider organization (PPO), competitive medical plan (CMP), exclusive provider organization (EPO), integrated delivery system (EDS), independent physician/provider organization (IPO), management service organization (MSO), physician hospital/provider organization (PHO) and any other type of managed care organization. Members of the corporation shall consist of only individuals under contracts which entitle such individuals to medical liability insurance. Health care facilities and managed care organizations need not be owned by or comprised of members of the corporation in order to be insured by the corporation. All such corporations shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state, unless otherwise specifically provided herein. Such a corporation may be formed under this chapter in the following manner:

- (a) The proposed incorporators shall subscribe articles of incorporation in which shall be stated:
 - (i) The proposed corporate name of the corporation, which shall not so closely resemble the name of any other corporation already transacting business in this state as to mislead the public or lead to confusion;
 - (ii) The domicile of the proposed corporation;
 - (iii) The names and post office addresses of the incorporators;
 - (iv) The fact that application for charter is being made under this chapter and the corporation proposed to operate under and subject to the provisions of this chapter;
 - (v) The purposes of the corporation.
- (b) Such articles of incorporation shall be filed with the Commissioner of Insurance, who shall refer the same to the Attorney General for his opinion as to whether the same meet the requirements of this chapter and are not otherwise violative of the Constitution or laws of this state or of the United States. The Attorney General shall examine the same and endorse his opinion thereon and return the same to the Commissioner of Insurance for approval. The Commissioner of Insurance shall (if the same be approved by the Attorney General) thereupon endorse his certificate of approval upon such articles of incorporation, record the same in his office, and refer the same to the office of the Secretary of State to be there recorded, whereupon said corporation shall become and be considered an existing entity. The articles of incorporation as thus approved and recorded shall be and constitute the charter of incorporation of such corporation. It shall not be necessary that such charter be published, nor shall it be necessary that it be recorded in the office of the chancery clerk.

SOURCES: Laws, 1995, ch. 372, § 1, eff from and after passage (approved March 15, 1995).

§ 83-47-9. Dues, fees and assessments; separate classes and groupings for fixing assessments of members; premium taxes.

Each member shall pay all dues, fees and assessments in such amounts as may be established from time to time by the resolution of the board of directors. The board of directors shall have the authority to provide for separate and distinct classes of insurance and groupings of members and insureds and to fix assessments and premiums at varying and different amounts for the various classes. No member or insured shall refuse or neglect to pay his or its assessment or premium because the amount thereof differs or varies from the amount of the assessment or premiums of members in other classes or groupings. The board of directors shall endeavor to establish and fix assessments and premiums for the various classes and groupings which are reasonable in amount, relative to the benefits to be received by those members and insureds within the classes and groupings involved, and the action of the board of directors in so doing shall be conclusive and final. Each member shall also pay all obligations which may, from time to time, become due and payable by such member to the corporation as and when the same shall become due and payable. Such fees, assessments and premiums required of members and insureds shall contain an amount sufficient to pay three percent (3%) premium tax, the same as levied on all other domestic nonprofit insurance corporations. Such premium taxes shall be collected and paid into the treasury by the State Tax Commission.

SOURCES: Laws, 1995, ch. 372, § 3, eff from and after passage (approved March 15, 1995).

LEGAL EXPENSE INSURANCE

§ 83-49-1. Purposes and construction of chapter.

The purposes of this chapter are to provide for legal expense insurance by the registration of prepaid legal services plans, to promote access to quality legal services at the lowest possible price, and to regulate the development and operation of prepaid legal services plans, and it is the intent of this legislature that this chapter be interpreted as liberally as necessary to accomplish these purposes.

SOURCES: Laws, 1983, ch. 474, § 1, eff from and after July 1, 1983.

§ 83-49-3. Persons to whom chapter applies.

The provisions of this chapter shall apply to all persons, groups, fraternal or benevolent organizations, including, but not limited to, insurers, corporations, partnerships, trusts, labor, craft or other unions, or any other entities who propose to operate or are operating or

participating in the operation of a prepaid legal services plan as such a plan is hereinafter defined.

SOURCES: Laws, 1983, ch. 474, § 2, eff from and after July 1, 1983.

§ 83-49-5. Definitions.

In this chapter, the following terms shall have the following meanings:

- (a) "Sponsor" means any insurer, as defined in this section, or any other corporation organized for the exclusive purpose of establishing and operating prepaid legal services plans.
- (b) "Prepaid legal services plan" or "plan" means any arrangement whereby responsibility is undertaken to provide or arrange for, or to pay for or reimburse any part of the cost of, any legal services for a consideration consisting in part of prepaid or periodic charges or dues; but the provisions of this chapter shall not apply to the benefits available under automobile club membership contracts and automobile liability insurance policies which supply limited legal services or reimbursement for legal services in automobile-related matters under certificates of authority issued by the Insurance Commissioner, or to any legal aid or other legal services program for the indigent, or to any employer-employee legal services plan which is excluded from the provisions of this chapter by the provisions of the Federal Employee Retirement Income Security Act of 1974, or any amendments thereto.
- (c) "Legal services" means any services normally provided by an attorney, as well as the payment of court costs and related expenses incurred in the exercise of any right; but not including the payment of fines, penalties, judgments or assessments. "Legal services" shall not include any service provided by an attorney in regard to a tort action.
- (d) "Advertising" means any communication, other than a solicitation, as hereinafter defined, to the public or any segment thereof by means of radio, television, newspaper, magazine, periodical, brochure, pamphlet, circular, or any other means, the apparent purpose or reasonable effect of which would be to convey information purporting to relate to or describe legal rights, legal services, attorneys or prepaid legal services plans.

"Solicitation" means any communication, written or oral, in person, or by means of telephone, radio, television, newspaper, magazine, periodical, brochure, circular, or otherwise, of any offer of coverage in a prepaid legal services plan, or invitation, or request to enroll in a prepaid legal services plan, or attempt to obtain consideration for the coverage of a prepaid legal services plan, or any other device, the apparent purpose or reasonable effect of which would be to induce the

recipient thereof to enroll in, or pay any consideration for the coverage provided by, a prepaid legal services plan.

- (e) "Commissioner" means the Insurance Commissioner of the State of Mississippi.
- (f) "Subscriber" means any person who has been enrolled in a prepaid legal services plan and is entitled to receive the benefits provided in the plan.
- (g) "Subscription contract" means any contract signed by an authorized representative of a prepaid legal services plan and an individual or an authorized representative of his group or employer or labor union or other entity with which he is affiliated, under which the individual becomes a subscriber to the plan.
- (h) "Insurer," as defined in this chapter, means an insurer licensed to transact life or casualty insurance in this state.

SOURCES: Laws, 1997, ch. 307, § 7, eff from and after July 1, 1997.

§ 83-49-45. Tax imposed on premiums; collection and enforcement.

- (1) In addition to any license fee or tax now or hereafter provided by law, which shall be paid when the company or sponsor enters or is admitted to do business in this state, there is hereby levied and imposed upon all insurance companies and sponsors an additional annual license or privilege tax of three percent (3%) of the gross amount of premium receipts received from, and on prepaid legal services insurance policies and subscription contracts as defined in this chapter, written in or covering risks located in this state. In determining said amount of premiums, there shall be deducted therefrom premiums received for reinsurance from companies authorized to do business in this state, cash dividends paid under policy contracts or subscription contracts in this state, and premiums returned to policyholders or subscribers and cancellation on accounts of policies or subscription contracts not taken. The term "premium" as used herein shall also include policy fees, membership fees and monthly subscription contract charges and all other fees collected by the companies or sponsors. No credit or deduction from gross premium receipts shall be allowed for any commission, fee or compensation paid to any agent, solicitor or representative.
- (2) Every insurance company or sponsor liable for the tax under the provisions hereof shall, quarterly each year as designated by the state tax commission, make and file with the state tax commission a full and correct statement, under oath of its president, secretary or other duly authorized officer at its home or head office in this country, of the gross amount of its premium receipts during the reporting period, and shall, at the time of filing such report, pay to the tax commission the tax levied hereby upon the premium collections for said period, computed as provided in subsection (1) of this section.

Every insurance company or sponsor liable for the payment of tax hereunder shall file an annual reconciliation statement of taxes paid during the previous year. The annual reconciliation statement shall be in the form prescribed by the state tax commission and shall be filed with the state tax commission on or before the last day of February following the close of each calendar year.

The state tax commission shall have the authority to promulgate rules and regulations, not inconsistent with this article, as it may deem necessary to enforce its provisions.

- (3) If any insurance company, foreign or domestic, or sponsor shall fail to pay the tax imposed by this chapter at the time required therein, such company or sponsor shall be liable for the full amount of such tax, plus a penalty of twenty percent (20%) of the amount thereof, together with interest at the rate of twelve percent (12%) per annum from the due date of such taxes until same shall be paid.
- (4) All taxes for which any company or sponsor is liable under the provisions of this chapter, and all penalties and interest due thereon, shall be collected and recovered by the state tax commission in the same manner provided by the law for the collection of sales taxes; and all administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest for nonpayment of taxes, failure to file returns, and for other noncompliance with the provisions of said chapter, and all other requirements and duties imposed upon taxpayers, shall apply to all persons liable for taxes under the provisions of this chapter; and the state tax commission shall exercise all the power and authority to perform all the duties with respect to taxpayers under this section as are provided in the Mississippi Sales Tax Law, except that in cases that conflict with the provisions of this chapter, in which case the provisions of this chapter shall prevail.

SOURCES: Laws, 1983, ch. 474, § 23, eff from and after July 1, 1983.

EFFECTIVE DATES OF INSURANCE PREMIUM TAX LAW AND AMENDMENTS THERETO

Chapter 452, Laws of 1983, effective April 1, 1983.

Amends Section 83-31-45, Mississippi Code of 1972, to eliminate a duplicating .2% premium tax on mutual insurance companies collected to fund insurance laws relating to the investigation and prevention of fires; and for related purposes.

Chapter 474, Laws of 1983, effective July 1, 1983.

An act to provide for legal expense insurance by the registration of prepaid legal services plans; to promote access to quality legal services at the lowest possible price; to regulate the development and operation of prepaid legal services plans; and for related purposes.

House Bill No. 775, effective May 8, 1984 (1984 Regular Session).

Clarifies the transfer of the responsibility of collecting insurance premium tax from the State Insurance Commissioner to the State Tax Commission. It further clarifies that all premiums from policies which are exempt from tax under Federal Code Sections 401, 403 and 408 are exempt from the state premium tax, except for those policies written by foreign insurance companies whose home state levies a tax on such policies, in which case the rate of tax would be the same as that levied by its home state.

Chapter 530, Laws of 1985, effective July 1, 1985.

An act to amend Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972, to equalize premium taxes levied upon foreign and domestic insurance companies on insurance policies covering risks in this state; to establish certain reductions in premium taxes otherwise due based upon investments maintained by the payor in Mississippi; to provide for credit for overpayment of insurance premium taxes; and for related purposes.

Chapter 538, Laws of 1985, effective July 1, 1985.

An act to amend Sections 45-11-5 and 45-11-7, Mississippi Code of 1972, to ensure that the fire insurance premium tax is collected on fire insurance components of multiple peril insurance; to increase the fire insurance premium tax through June 30, 1990, and to provide that such increase be deposited into a special account in the State Treasury and be used to defray expenses of constructing certain capital improvements at the State Fire Academy.

Chapter 321, Laws of 1986, effective March 13, 1986.

An act to amend Section 27-15-129, Mississippi Code of 1972, to extend the repealer which would discontinue the credit allowed against certain insurance premium taxes for qualifying investments made by insurance companies within this state.

Chapter 327, Laws of 1987, effective March 11, 1987.

Amends Sections 27-15-103, 27-15-109, and 27-15-119 to exempt retirement plans qualified under Section 457 of Internal Revenue Service Code from certain insurance premium taxes; and for related purposes.

Chapter 511, Laws of 1987, effective April 30, 1987.

Amends Sections 21-29-229 and 21-29-233 to provide that funds of each municipal system will be transferred from the treasurer of municipality to the Board of Trustees of the Public Employees' Retirement System, and that these funds be certified by the Board, and for related purposes.

Chapter 330, Laws of 1988, effective July 1, 1988.

Amends Section 27-15-107 to accelerate the payment of insurance premium taxes, and for related purposes.

Chapter 584, Laws of 1988, effective July 1, 1988.

Amends Sections 45-11-5, 45-11-7, 83-1-37 and 83-1-39 to end the transfer of certain fire insurance premium tax collections to the State Fire Academy Construction Fund and to provide that such collections shall be deposited in the State General Fund; to increase the County Volunteer Fire Department Fund; and for related purposes.

Chapter 576, Laws of 1989.

Extends the repeal date for a reduction in premium tax for qualifying Mississippi investments.

Chapter 333, Laws of 1990.

Extends the repeal date for a reduction in premium tax for qualifying Mississippi investments.

Chapter 477, Laws of 1990.

Amends Section 27-15-113 to clarify penalties and administrative procedures and repeals Section 27-15-111.

Chapter 558, Laws of 1990.

Amends Section 83-1-37 to provide the transfer of certain funds to defray training expenses of firefighters.

Chapter 559, Laws of 1990.

Amends Section 83-1-37 and 83-1-39 to increase the municipal fire protection and the county volunteer fire department funds.

Senate Bill 2010, Laws of 1990, first extraordinary session.

Amends Section 45-11-5 to remove the repeal date and to provide the 1/2 of 1% levy on fire premiums to be transferred to the municipal fire protection fund and the county volunteer fire department funds.

Chapter 546, Laws of 1990.

Provides a credit against premium, franchise or income taxes for contributions to the Guaranty Association Fund by member insurers.

Chapter 381, Laws of 1991.

Extends the repeal date for a reduction in premium tax for qualifying Mississippi investments.

Chapter 536, Laws of 1991.

Amends Section 83-1-39 to clarify purposes for which insurance rebate monies paid to the county volunteer fire department may be expended.

Chapter 347, Laws of 1993.

Amends Section 83-23-218 to increase the guaranty association credit.

Chapter 418, Laws of 1994.

Amends Sections 83-1-37 and 83-1-39 to increase the amounts transferred to the Municipal Fire Protection Fund and the County Volunteer Fire Department Fund to \$4.6 million.

Chapter 441, Laws of 1994.

Amends Section 27-15-119 to add provisions to phase out the annual premium tax on annuities.

Chapter 502, Laws of 1994.

Amends Section 27-15-107 to revise the due date for the report and payment of the insurance premium tax.

Chapter 577, Laws of 1994.

Amends Section 45-11-5 to remove the cap on fire premium taxes earmarked for municipal and county fire protection.

Chapter 313, Laws of 1996.

An act to reenact Sections 83-1-1, 83-1-3 and 83-1-5 through 83-1-37, Mississippi Code of 1972, which establish the Department of Insurance, empower the Commissioner of Insurance and provide for the Municipal Fire Protection Fund; to amend Section 24, Chapter 559, Laws of 1990, to remove the repealer on the Department of Insurance, the Municipal Fire Protection Fund and the Commissioner of Insurance; and for related purposes.

Chapter 307, Laws of 1997.

Amends Sections 83-1-151, 83-23-9, 83-24-5, 83-43-5, 83-49-5, 83-49-15, 83-49-17 and 83-49-37, Mississippi Code of 1972, in conformity thereto; and for related purposes.

Chapter 324, Laws of 1997.

An act to amend Sections 83-5-77, 83-7-17, 83-9-3 and 83-31-45, Mississippi Code of 1972, to revise certain fees paid by insurance companies to the Commissioner of Insurance in order to conform to other sections of law or actuarial practices; and for related purposes.

Chapter 410, Laws of 1997.

Amends Section 83-1-27 to authorize the Department of Insurance to contract with professional service organizations to examine the financial affairs of all foreign companies within its jurisdiction; amends Section 83-31-1 to revise the minimum number of persons needed to form a business of mutual insurance; repeals Section 83-1-25, which authorized the Commissioner of Insurance to conduct financial examinations of domestic insurance companies.

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